



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION A SPECIAL ORDER ISSUED BY CONSENT TO QUARLES PETROLEUM, INC.

UST Facility at 3410 South Main Street, Harrisonburg, VA
Facility Identification No. 6014274

SECTION A: Purpose

This is a Special Order by consent issued under the authority of Va. Code §§ 62.1-44.15 (8a) and (8d) between the State Water Control Board and Quarles Petroleum, Inc. to resolve certain alleged violations of the State Water Control Law and regulations at Quarles Petroleum's Underground Storage Tank Facility located at 3410 South Main Street, Harrisonburg, Virginia as well as certain other violations that may have occurred as described in Section E.2 below.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizen's board of the Commonwealth of Virginia as described in Code §§ 10.1-1184 and 62.1-44.7.
2. "Code" means the Code of Virginia (1950), as amended.
3. "UST" means underground storage tank as further defined in 9 VAC 25-580 10 and Virginia Code §62.1-44.34:8.
4. "QPI" means Quarles Petroleum, Inc., the UST owner within the meaning of Virginia Code §62.1-44.34:8.
5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code §10.1-1183.
6. "Director" means the Director of the Department of Environmental Quality.

7. "Facility" means the retail gasoline station and USTs owned and operated by QPI located at 3410 South Main Street, Harrisonburg, Virginia. The USTs are further identified as gasoline tanks #1 (6,000 gallons) and #2 (6,000 gallons), both installed during May 1990, and as diesel tanks #3M (6,000 gallons) and #4M (10,000 gallons), also installed during May 1990.
8. "Order" means this document, also known as a Consent Special Order.
9. "Regional Office" means the Valley Regional Office of the Department.
10. "Regulation" means 9 VAC 25-580-10 *et seq.* (Underground Storage Tanks: Technical Standards and Corrective Action Requirements) relating to upgrading of existing USTS systems, registration of tanks, closure of non-compliant tanks, and release detection requirements.
11. "Form 7530" means the UST notification form used by the DEQ to register and track USTs for proper operation, closure and ownership purposes. See 9 VAC 25-580-70.

SECTION C: The Department's Findings of Fact and Conclusions of Law

1. The Regulation, at 9 VAC 25-580-10 *et seq.*, requires that the USTs at the Facility meet final, specific performance requirements for leak detection, spill and overfill protection, and corrosion protection by December 22, 1998.
2. QPI is the owner of the USTs at this Facility within the meaning of Virginia Code § 62.1-44.34:8.
3. On February 27, 2007, DEQ staff conducted a formal inspection of the Facility. The following deficiencies were noted:
 - a. Metal portions of the product piping associated with UST numbers 1, 2, 3M and 4M were in contact with the ground and were not protected from corrosion in apparent violation of 9 VAC 25-580-50.
 - b. Release detection records for UST numbers 3M and 4M (#1 and 2 on the automatic tank gauge report) were not available for review in apparent violation of 9 VAC 25-580-140.

DEQ staff issued a Request for Corrective Action (RCA) to QPI on February 27, 2007, for these apparent violations of the Regulation. The RCA detailed the violations noted during the inspection and requested that QPI respond to the DEQ in writing by May 27, 2007, informing DEQ staff of any corrective actions performed to resolve these violations. UST numbers 3M and 4M are connected by a product manifold.

4. On May 14, 2007, DEQ staff received a response from QPI detailing the corrective actions it had taken. QPI hired a contractor to install cathodic protection on all the noted portions of metal product piping that were in contact with the ground and not protected from corrosion. The contractor installed the anodes on April 6, 2007 and performed an evaluation of the cathodic protection system that same day. The test results indicated that the metal portions of the product piping were protected from corrosion, effectively resolving the violation noted in paragraph 3.a. of Section C. QPI also provided the DEQ with release detection records from an automatic tank gauge (ATG) system indicating passing test results for UST numbers 3M and 4M (#1 and 2 on the ATG report) dated April 28, May 5 and May 10, 2007. The next most recent release detection records submitted for these two USTs were dated August 27 and September 2, 2006.
5. On May 21, 2007, DEQ staff requested, via telephone, copies of the release detection records for UST numbers 3M and 4M for the past twelve months. In response, QPI submitted release detection records for these two USTs confirming what the DEQ had already received and reviewed in paragraph 4 of Section C. This information included passing test results for these two tanks for May 22, 2007, but not for May 10, 2007. No earlier tests results were received for the years 2006 or 2007. The Regulation at 9 VAC 25-580-140 states "Tanks must be monitored at least every 30 days for releases..." It also requires, at 9 VAC 25-580-180, that UST owners and operators must maintain the results of any release detection monitoring for at least one year.
6. During a meeting with DEQ staff on May 23, 2007, QPI's representative stated that QPI did not have twelve months of release detection records for UST numbers 3M and 4M.
7. On August 28, 2007, DEQ staff issued a Notice of Violation (NOV) No. 07-08-VRO-1 to QPI, for the apparent continuing violations of the Regulation. The NOV requested that QPI respond to the Department by September 10, 2007. The violations noted for UST numbers 3M and 4M are failure to: a) perform release detection on the USTs at least every 30 days (9 VAC 25-580-140), and b) maintain UST release detection records for at least one year (9 VAC 25-580-180).
8. On September 10, 2007, DEQ received a written response from QPI regarding the noted violations. In this response, QPI explains the method in which an ATG system evaluates a product increase experienced inside a UST from a loss of siphon in a product manifold, similar to the one installed on UST numbers 3M and 4M. If a product manifold loses siphon, the product in the manifold drains back into the USTs and the ATG will note this as a product increase. When this condition exists, the ATG will not be able to perform release detection test for those USTs. Apparently, this condition existed for these two USTs from September 3, 2006 through April 28, 2007.
9. On September 19, 2007, DEQ staff contacted the ATG manufacturer, VeedeRoot, and confirmed that the ATG will only show passing test results on its twelve-month history report. Failed test reports are not recorded on the twelve-month history. So, failed or invalid

tests performed on the USTs by the ATG would not be shown on the report submitted by QPI. However, these tests would have been available on the days performed, and records of the events available for retention.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §§ 62.1-44.15 (8a) and (8d), orders QPI and QPI agrees that:

1. To remedy the violations described above and to reduce the chances of this violation occurring again, QPI shall perform the actions described in Appendices A and C to the Order.
2. A civil charge of \$1,400.00 has been assessed for the noted violation. QPI shall pay \$350 of this civil charge within 30 days of the effective date of the Order. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of the Commonwealth of Virginia" and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23240

3. \$1,050.00 of this total civil charge shall be satisfied upon completion by QPI of a Supplemental Environmental Project (SEP) pursuant to Virginia Code 10.1-1186.2 and as described in Appendix C of this Order.
4. QPI shall also include its Federal Tax Identification Number with the civil charge payment and shall note on the payment that it is being made pursuant to this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of QPI, for good cause shown by QPI, or on its own motion after notice and opportunity to be heard.
2. This Order addresses and resolves those violations specifically identified herein as well as any violations of 9 VAC 25-580-140 and -180 that may have occurred prior to QPI's signature date of this Order at any of the locations listed on Appendix B. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; and/or (3) taking subsequent

action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.

3. For purposes of this Order and subsequent actions with respect to this Order, QPI admits the jurisdictional allegations contained herein, but neither admits nor denies the Department's factual findings and conclusions of law contained herein.
4. QPI consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. QPI declares it has received fair and due process under the Virginia Administrative Process Act, Code §§ 2.2-4000 *et seq.*, and the State Water Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by QPI to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall act to waive or bar the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. QPI shall be responsible for failing to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. QPI must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. QPI shall notify the Director of the Regional Office in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. The reasons for the delay or noncompliance;
 - b. The projected duration of such delay or noncompliance;
 - c. The measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. The timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director of the Regional Office in writing within 10 days of learning of any condition listed above, which QPI intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and QPI. Notwithstanding the foregoing, QPI agrees to be bound by any compliance date, which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
 - a. QPI petitions the Regional Director to terminate the Order after it has completed all requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. The Director or the Board terminates this Order in his or its whole discretion upon 30 days written notice to QPI.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve QPI from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, QPI voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 21st day of February, 2008. AS

Amy T. Owens
Amy T. Owens, Regional Director
Department of Environmental Quality

The terms and conditions of the Order are voluntarily accepted by Quarles Petroleum, Inc.:

Date: 2/5/08 By: Benjamin N. Waffle
~~Erie Hiltner, Environmental Manager~~
Benjamin N. Waffle, President

Commonwealth of Virginia, City/County of Fredericksburg

The foregoing instrument was acknowledged before me this 5th day of Feb., 2008, by

Benjamin N. Waffle
(name)

6/30/08
Date

My commission expires:

Carol A. Jackson
Notary Public
Reg# 237459

Appendix A
Quarles Petroleum, Inc.
All UST Facilities at which QPI is the UST owner listed in Appendix B.

QPI shall:

- A. Begin a company-wide program to maintain copies of release detection records performed at least every 30 days for the past year for each regulated UST. It shall also ensure that the UST identification number listed in the Automatic Tank Gauge (ATG) system for all regulated USTs corresponds to the registered identification number submitted to the DEQ before its first release detection record submittal as required in Paragraph C.
- B. By February 29, 2008, submit all documentation related to performance of the SEP identified in Appendix C.
- C. By February 29, 2008, submit copies of release detection results for all the USTs listed on Appendix B for the month of January 2008.
- D. By March 31, 2008, submit copies of release detection results for all the USTs listed on Appendix B for the month of February 2008.
- E. By April 30, 2008, submit copies of release detection results for all the USTs listed on Appendix B for the month of March 2008.

Appendix B

Quarles Petroleum, Inc.

All UST Facilities in the Valley Region at which QPI is listed as the UST owner

Facility Id	Name	Address 1	City
6012807	Summers Market	3000 Hydraulic Rd	Charlottesville
6014877	Shadwell Food Store	3008 Richmond Rd	Shadwell
6013953	F&S CITGO	301 N Buckmarsh St	Berryville
6005163	Q-STOP #624	10176 Harry Byrd Hwy	Berryville
6003488	Waterloo Service Center	12640 Lord Fairfax Highway	Boyce
6038953	Quarles Q Card 507	150 Park Centre Drive	Winchester
6018150	Q-CARD #702	8532 Seminole Trail	Ruckersville
6016574	PAYTONS GROCERY	9658 Spotswood Trail	Stanardsville
6014274	Q Card #303	3410 S Main St	Harrisonburg
6038828	Quarles Food Store #631	4025 Quarles Ct	Harrisonburg
6013962	Riverside Mini-Mart	3513 Business 340 West	Alma
6038078	Quarles Food Store #630	211 N Main St.	Bridgewater
6013912	Q-Card #302	295 N Timber Way	Broadway
6018929	Q-STOP #605	261 E Lee St	Broadway
6014003	257 GROCERY	6939 Briery Branch Rd	Dayton
6013978	DRY RIVER Store	1228 Clover Hill Rd	Dayton
6000585	Monger Coal & Oil Inc / XPress Mart #5	596 and 600 Mount Hermon Road	Elkton
6014002	Q-Stop #606 - Quarles Harrisonburg Bulk Plant	1006 - 1010 W Market St	Harrisonburg
6014811	WHITS MARKET	189 South Main St	Timberville
6013958	GRADENS SUPERMARKET	6836 John Marshall Hwy	Lebanon Church
6037739	Q- Stop #629	9219 Winchester Road	Front Royal
6014113	Q-Card #200 - Front Royal Bulk Plant	195 Commerce Ave	Front Royal
6025658	Q-STOP #625	10178 Winchester Rd	Front Royal
6004767	Route 619 Market	2431 Rivermont Drive	Front Royal
6009131	Q-STOP #621	4697 John Marshall Hwy	Linden
6010751	Q-CARD # 304	790 S Delphine Ave	Waynesboro
6010902	CROSSROADS GROCERY	119 Cedar Grove Rd	Winchester
6015931	GREENWOOD GROCERY and Deli	1893 Senseny Rd	Winchester
6010771	INTERSTATE TRUCK SERVICE/Q-Card 504	151 Ryco Ln	Winchester
6021031	Q-Stop #604	7 E Gerrard St	Winchester
6010906	Smiths Grocery	3430 Northwestern Pike	Winchester
6005172	TOMS MARKET	1998 Back Mountain Rd	Winchester
6015009	Valley Avenue Mobil	1856 Valley Ave	Winchester
6021994	X Press Mart #2	823 N Loudoun St	Winchester

Appendix C

1. The Supplemental Environmental Project to be performed by QPI is the installation of continuous statistical leak detection systems at the following nine UST facilities

Facility Id	Name	Address 1	City
6012807	Summers Market	3000 Hydraulic Rd	Charlottesville
6014877	Shadwell Food Store	3008 Richmond Rd	Shadwell
6013953	F&S CITGO	301 N Buckmarsh St	Berryville
6005163	Q-STOP #624	10176 Harry Byrd Hwy	Berryville
6016574	PAYTONS GROCERY	9658 Spotswood Trail	Stanardsville
6013978	DRY RIVER Store	1228 Clover Hill Rd	Dayton
6013958	GRADENS SUPERMARKET	6836 John Marshall Hwy	Lebanon Church
6004767	Route 619 Market	2431 Rivermont Drive	Front Royal
6010902	CROSSROADS GROCERY	119 Cedar Grove Rd	Winchester
6015009	Valley Avenue Mobil	1856 Valley Ave	Winchester

2. The SEP shall be completed by February 29, 2008, by QPI.
3. QPI certifies that it has not commenced performance of the SEP prior to the identification of the violations cited in this Consent Order.
4. The net cost of the SEP to QPI shall not be less than \$1,050.00. In the event that the final net cost of the SEP is less than this amount, QPI shall pay the remainder of the amount in accordance with Paragraph D. 2. of this Order to the Commonwealth of Virginia, unless otherwise agreed to by the Department. Net costs shall mean the costs of the project minus any tax savings, grants and first-year operation cost reductions or other efficiencies.
5. QPI acknowledges that it is solely responsible for completion of the SEP project. Any transfer of funds, tasks, or otherwise by QPI to a third party, shall not relieve QPI of its responsibility to complete the SEP as contained in this Order.
6. QPI shall provide the Department with written verification of completion of the SEP by submitting copies of any installation and purchase invoices and any startup or testing documentation. The project completion verification must be submitted to the Department by February 29, 2008.
7. QPI shall submit written verification to the Department in the form of a certified statement itemizing costs and proof of payment of the final overall and net cost of the SEP by February 29, 2008. For the purposes of this submittal, net costs can be either the actual final net costs or the projected net costs if such projected net costs statement is accompanied by a CPA certification or certification from QPI's Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.

8. In the event that QPI publicizes the SEP or the results of the SEP, QPI shall state in a prominent manner that the project is part of a settlement for an enforcement action.
9. The Department has the sole discretion to determine whether the SEP has been completed in a satisfactory manner.
10. QPI shall not submit \$1,050.00 of the cost of this SEP as a tax-deductible capital investment or a one time non-depreciable expenditure on any of its future tax returns.
11. Documents to be submitted to the Department, other than the civil charge payment described in Section D of the Order, shall be sent to:

David Robinett
DEQ-VRO
4411 Early Road
PO Box 3000
Harrisonburg, VA 22801